

## **Committee of Experts on the Transport of Dangerous Goods and on the Globally Harmonized System of Classification and Labelling of Chemicals**

**Sub-Committee of Experts on the Transport of Dangerous Goods**

**18 November 2022**

**Sixty-first session**

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Item 11 of the provisional agenda

**Unified interpretations of the Model Regulations**

## **Interpretations of the Model Regulations**

**Transmitted by the expert from the United States of America**

### **Introduction**

1. The concept of unified interpretations was added to the agenda at the fifty-seventh session of the Sub-Committee based on document ST/SG/AC.10/C.3/2020/73. Further informal documents INF.19 (58<sup>th</sup> session) and INF.14 (60<sup>th</sup> session), proposing to continue the conversation on the implementation of an interpretation framework for the Model Regulations was discussed during the fifty-eighth and sixtieth sessions. This paper supports sustainable development goal 6, “peace, justice, and strong institutions.” Specifically, the proposal supports target 16.6 to “develop effective, accountable and transparent institutions at all levels.”

2. During the sixtieth session an informal coffee break discussion was convened to discuss the concept of a system of interpretations for the Model Regulations. While the Sub-Committee noted general support for the concept of unified interpretations and the potential value added by having a more clearly defined interpretation process, no decisions were taken regarding procedural aspects of implementation of such a process.

3. This paper proposes to continue the discussion on the procedural elements of an interpretation process for the Model Regulations and proposes a process for consolidation of interpretations of the Model Regulations.

### **Discussion**

4. During the coffee break discussion several points were raised including:
- Not mandatory for modes/subsidiary bodies to adopt interpretations as regulatory provisions.
  - Should not be used when regulatory change/clarity is a more appropriate solution, and they should be used sparingly.
  - Potential introductory text that clearly states interpretations are not legally binding and for clarification only.
  - Historical examples of report language that has been used to clarify the Sub-Committee’s interpretation of existing requirements could be useful to illustrate the types of interpretations to be provided.

5. The Sub-Committee issues guidance/interpretations in the report of sessions in instances where either no specific regulatory change was requested or if it was determined that no regulatory change was required, but verification/refusal of a specific point raised within a paper warrants inclusion in the report. This guidance can be utilized by shippers, carriers, and competent authorities to ensure consistent implementation of the Model Regulations. However, locating these specific guidance/interpretation statements within numerous reports archived in several locations within the UNECE website archives is cumbersome and not easily recognizable to those unfamiliar with the way the Sub-Committee operates. Examples of guidance/interpretations previously provided by the Sub-Committee in reports include:

- Report of the 49<sup>th</sup> session (para. 106). “The Sub-Committee confirmed the interpretation proposed by Spain, according to which it was possible to use a different IBC of the same design for each drop test. However, it was not deemed necessary to change the current wording of note “e” in Table 6.5.6.3.5, as the note was apparently clear on that point.”
- Report of the 58<sup>th</sup> session (paras. 33 and 34). “Most experts who spoke were not in favour of either option proposed in ST/SG/AC.10/C.3/2021/12 and were of the opinion that, in this respect, there was no need for additional provisions in the Model Regulations. The Sub-Committee agreed that articles of UN 3538 containing gases meeting the conditions described in 2.2.2.3, including the gas cylinders, were not subject to the regulations.”

6. Where it is deemed important enough for clarifications to be included in the report of the Sub-Committee on an interpretive issue concerning the Model Regulations, these interpretations should be provided in a consolidated and easily accessible location.

## **Proposal**

7. Request to maintain the agenda item on the 2023-2024 agenda and to continue to discuss the mechanism for developing, posting, and maintaining interpretations of the Model Regulations.

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